IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6376 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

IPCL

Versus

VIMALKUMAR BALDEVDAS GOSWAMI

Appearance:

MR KEYUR GANDHI for NANAVATI ASSOCIATES for Petitioner

MR SHALIN N MEHTA for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 27/09/2000

ORAL JUDGEMENT

1. The petitioner, by way of this petition under Articles 226 and 227 of the Constitution, challenges the order of the Labour Court, Vadodara in Recovery Application No.400 of 1993 whereby the respondent is

ordered to be paid an amount of Rs.8,067.64 ps.

2. The learned counsel for the petitioner has reiterated the contentions of the petitioner-company that the respondent was not a "workman" and, therefore, the impugned order of the Labour Court is without jurisdiction. It is further submitted that the respondent was not entitled to the amount in view of the fact that he insisted on not signing the muster-roll even after he was upgraded and placed into a higher scale of pay.

3. The Labour Court has, in the impugned order, considered the contentions of the petitioner and particularly the evidence of the petitioner's witness to the effect that even after the respondent being placed in the cadre of officer, such work of an officer was not being taken from him. It is also admitted that the applicant was entitled to the revised grade and the benefits. In such circumstances, the Labour Court has come to the conclusion that the benefit of revised scale was denied only on the ground that the respondent had not signed in the muster-roll. Therefore, the impugned order for payment of the difference of wages found to be due is made. The Labour Court has rightly disconnected the matter of not signing the muster-roll, which may or may not amount to misconduct, from the entitlement of the petitioner to the higher pay scale which was undisputed. The plea of the petitioner that the respondent was not a "workman" within the meaning and definition of the Industrial Disputes Act, 1947 does not appear to have been pressed before the Labour Court; nor such plea could be substantiated before this Court after referring to the voluminous records annexed to the petition.

4. Thus, no reason is made out to interfere with the findings of fact and the conclusions, or the resultant order. Hence, the petition having no substance, it is dismissed. Rule is discharged with no order as to costs. Interim relief stands vacated.

Sd/-

[D.H.WAGHELA, J.]

KMG Thilake

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